

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF MISSISSIPPI  
JACKSON DIVISION

CHARLES SMITH

PETITIONER

V.

CIVIL ACTION NO. 3:11-cv-00631-CWR-FKB

E.L. SPARKMAN

RESPONDENT

REPORT AND RECOMMENDATION

This cause is before the Court on Respondent's Motion to Dismiss as Moot (Docket No. 13). Having considered the motion, and the documents filed in this matter, the undersigned recommends that the motion be granted and that this action be dismissed.

Charles Smith filed the instant petition for writ of habeas corpus because somehow his release date was changed during his incarceration and time for which he should have been credited disappeared. Docket No. 1. Respondent has moved to dismiss the petition as moot, acknowledging that at some point Smith's time sheet was changed from a credit of 351 days to a credit of 188 days, but asserting that a correction has been made and Smith has been restored his 351 days credit. Respondent has attached as Exhibit 1 to his motion a corrected time sheet. Docket No. 13. Smith has not responded to the motion to dismiss as moot. Since Smith's credit has been restored, the undersigned recommends that the motion be granted and this case be dismissed.

The parties are hereby notified that failure to file written objections to the proposed findings, conclusions, and recommendation contained within this report and recommendation within fourteen days after being served with a copy shall bar that party, except upon grounds of plain error, from attacking on appeal the unobjected-to proposed factual findings and legal conclusions accepted by the district court. 28 U.S.C. §636; Fed. R. Civ. P. 72(b)(as amended,

effective December 1, 2009); Douglass v. United Services Automobile Association, 79 F.3d 1415, 1428-29(5th Cir. 1996).

SO ORDERED, this the 17th day of March, 2012.

s/F. Keith Ball  
UNITED STATES MAGISTRATE JUDGE